IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

WP(C).No. 23982 of 2007(E)

OS.603/1997 of PRINCIPAL MUNSIFF,ALAPPUZHA

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PETITIONER:

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1. MADHAVAN,
   MALIYECKALCHIRA, SOUTH ARYAD MURI, ALAPPUZHA.

2. SADANANDAN,
   KANNIYACHIRA -DO- -DO-.

3. SREEDHARAN,
   CHAKKAKANDATHIL, -DO- -DO-.

BY ADV. SRI.J.OM PRAKASH

RESPONDENTS:

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1. MATHEW,
   KUTTICHIRA, THATHAMPALLY, ALAPPUZHA.

2. THANKAPPAN,
   MALIYECKAL CHIRA, -DO- -DO-.

3. CHANDRASEKHARA, -DO- DO-.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J.

WP(C)No. 23982 OF 2007 E

Dated this the 9th August, 2007.

JUDGMENT

This writ petition is preferred against the order of the Munsiff, Alappuzha in refusing to review the order. An application for review of the order was filed with 22 months delay. The court below, on the application of the defendant, permitted comparison of signature and directed the party to deposit some amount to start with. The defendant deposited Rs.2,250/-. Thereafter there was necessity for a larger amount and Rs.7,500/- was ordered to be deposited. The defendant nor his counsel then appearing at that point of time did not bother and the matter was ultimately listed and it came before trial. It is at that stage an application for review was filed. Ordinarily delay has to be condoned. But if the delay happens on account of the gross negligence and grave misconduct in prosecuting the proceedings the court shall not grant such permission because it may amount even to abuse of process of court. Therefore, in spite of the repeated opportunities given the defendant did not bother to deposit the amount and when the case is listed and evidence is adduced an application to review is filed and the intention is manifestly clear. Therefore, I am not inclined to

interfere with the order passed above. But I make it clear that just because the court has refused to review the order passed earlier by it, it will not shift the burden of proof on whom it is cast. When the court is not having an expert opinion the court must be very careful in meticulously scrutinising and arriving at a decision. With these observations the writ petition is dismissed.

M.N.KRISHNAN
Judge

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